

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

v.

16-CR-13-A
ORDER

BRANDON LOYD,

Defendant.

The defendant, Brandon Loyd, is currently serving a 85-month sentence after pleading guilty to bank robbery by use of a dangerous weapon in violation of 18 U.S.C. §§ 2113(a), 2113(d), and 2, and to brandishing a firearm in furtherance of a crime of violence in violation of 18 U.S.C. §§ 924(c)(1)(A)(ii) and 2. The Defendant did not appeal his conviction or sentence, nor has he filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2255.

Defendant Loyd has, however, made a *pro se* letter-request for free copies of his “docket sheet, sentencing transcripts, and . . . [judgment].” For the reasons stated below, the defendant’s request is denied without prejudice.

DISCUSSION

The relief the defendant seeks is governed by two different statutes. The first, 28 U.S.C. § 2250, states that an indigent petitioner may be provided with free “copies of . . . documents or parts of the record on file.” The statute, however, applies only “on an[] application for a writ of habeas corpus.” *Id.* The defendant, as noted, has not filed an application for a writ of habeas corpus.

The second statute governing the relief the defendant seeks is

28 U.S.C. § 753(f). In relevant part, § 753(f) provides:

Fees for transcripts furnished in proceedings brought under [28 U.S.C. § 2255] to persons permitted to sue or appeal in forma pauperis shall be paid by the United States . . . if the trial judge or a circuit judge certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal.

The Second Circuit has held that both “the plain language and necessary operation” of § 753(f) require that “a motion for a free transcript . . . is not ripe until a § 2255 motion has been filed.” *United States v. Horvath*, 157 F.3d 131, 132 (2d Cir. 1998). Because, as noted, the defendant has not filed a § 2255 motion, § 753(f) does not authorize the Court to provide the defendant with free transcripts.

If the defendant would like a copy of his docket sheet, or any other information contained in his docket, he must pay the appropriate fee to the Clerk of Court. See 28 U.S.C. § 1914. The fee for copies of the electronic docket sheet is \$.10 per page. The cost for a copy of the docket sheet in this case is \$ 2.30. Payment should be forwarded to the Clerk of Court and a copy of the docket will then be mailed to the defendant.

CONCLUSION

For the reasons stated above, the defendant’s request for free transcripts and various docket items is **DENIED** without prejudice.

Dated: August 6, 2019
Buffalo, New York

s/Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE